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BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

JEFFREY ALLAN FREDERICK,

Respondent.

Case No. 2014-1057

FILED

DEC 30 2015

NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

**COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING**

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General, hereby notifies Respondent JEFFREY ALLAN FREDERICK ("RESPONDENT" or "FREDERICK") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NAC 116A.360.

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JURISDICTION

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2 1. During all relevant times mentioned in this complaint, FREDERICK was
3 licensed as a community manager by the Division and is, therefore, subject to the jurisdiction
4 of the Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116
5 and 116A.

ALLEGATIONS OF FACT

6
7 2. FREDERICK was at all relevant times mentioned in this Complaint, licensed as
8 a community manager under certificate number CAM.0007580.

9 3. FREDERICK acted as the community manager for Laurel Canyon Homeowners
10 Association (the "Association") until January 2014 and then became the community manager
11 again in March 2014.

12 4. The Association hired a new community manager in December 2013 and
13 sought legal action against PW James Management and Consulting, LLC ("PW James") for
14 refusing to relinquish control over the Association and to stop a pending election.

15 5. During this time, FREDERICK'S community manager certificate was associated
16 with MP Association Management according to Division records, but the Association's 2013
17 management contract is with PW James.

18 6. Board members only dealt with Penny Frederick at PW James.

19 7. Penny Frederick, RESPONDENT FREDERICK'S wife, does not have a
20 community manager certificate, but is an owner of PW James with RESPONDENT.

21 8. Board member, Dov Erlichman, filed a complaint against FREDERICK for his
22 failure to turn over Association records to the new manager and also alleged Penny Frederick
23 was managing the Association without a certificate.

24 9. The ballots for the election at issue in the legal proceeding were not turned over
25 to the new manager and were eventually opened at a meeting noticed by two candidates,
26 James Schumann and Robert Valentine, resulting in those two candidates becoming board
27 members, but board member, Dov Erlichman, was not notified of the meeting to open the
28 ballots and did not know how that occurred.

1 10. By emergency meeting on March 17, 2014, the two new board members
2 rehired FREDERICK and terminated the prior manager.

3 11. The Division notified FREDERICK of the complaint's allegations by letter dated
4 April 28, 2014 as follows:

5 a. It is alleged that you have violated NRS 116.31153(1) by signing checks from
6 the Association's Reserve account.

7 b. It is alleged that you have violated NRS 116.31153(2) by allowing checks to be
8 paid from the Association's operating account with only your sole signature on
9 the checks.

10 c. It is alleged that you have violated NRS 116A.630(a) by signing checks from the
11 Association's operating account without being an authorized signer on that
12 account.

13 d. It is alleged that you have violated NRS 116.31034(4) as less than 30 days after
14 sending out notice of the unit's owner's eligibility to serve as a member of the
15 executive board you prepared the ballots for the 2014 election.

16 e. It is alleged that you have violated NRS 116.31034(4) as you did not send
17 notice to all qualified owners notifying them of eligibility to serve as a member of
18 the executive board for the 2014 election.

19 12. In July 2014, the Secretary of State's records were updated to include James
20 Schumann and Robert Valentine as board members and officers, but the Division received no
21 such notification.

22 13. The Division sent a second letter to FREDERICK dated May 23 and requested
23 additional information.

24 14. The Division requested and received audio recordings for meetings in 2013 to
25 August 21, 2014.

26 15. In October of 2014, FREDERICK responded to the Division with a binder of
27 various documents from the court proceedings, but no sworn affidavit as to the allegations
28 from the April letter.

1 16. By letter dated October 16, 2014, the Division requested documents based on
2 the information in the binder.

3 17. FREDERICK responded by affidavit dated October 24 by attaching some
4 documents and stating "PWJames is not in possession of original voting materials. The
5 board of Directors has these items."

6 18. FREDERICK provided no other response to the allegations from April.

7 19. By letter dated December 4, 2014, the Division provided another request for
8 information.

9 20. On or about December 18, 2014, FREDERICK responded in part to the request
10 from the Division by providing unsigned minutes from 2014 and the following in response to
11 the allegation concerning the election materials:

12 Regarding the February 2014 election meeting – PWJames was not the management
13 company at the time of the February 2014 election meeting, and as such were not
14 included in the process. We are unaware as to who made the determination to hold
15 the February 2014 election meeting. The contract between PWJames Management
16 and the Laurel Canyon HOA was terminated in January 2014 and reinstated in April
17 2014.

18 21. By this time, the Association still had not filed an amendment to the annual
19 registration form with the Division.

20 22. By letter dated February 4, 2015, the Division requested additional details
21 regarding the election, the petition of homeowners, and the emergency meeting from
22 February 2014.

23 23. By letter dated February 13, 2015, the Division again requested a response to
24 the allegations from the April 2014 letter.

25 24. FREDERICK did not respond.

26 25. The Division received an email from the complainant, board member Dov
27 Erlichman, stating that FREDERICK threatened to hurt him during a meeting of the board on
28 February 12, 2015.

 26. By letter dated February 18, 2015 to FREDERICK, the Division requested audio

1 from the Association's February 12, 2015 meeting.

2 27. FREDERICK did not respond.

3 28. The Division's second request for the audio included a request for all 2014
4 meetings through April 2015.

5 29. FREDERICK did not respond.

6 30. The Division issued an administrative fine in the amount of \$1,000 to
7 FREDERICK dated June 2, 2015 for his failure to cooperate with the Division.

8 31. FREDERICK did not pay the administrative fine and did not appeal the fine to
9 the Commission.

10 32. The Division opened an investigation against the Association for its failure to file
11 its annual registration form in 2015 and against two board members James Schumann and
12 Robert Valentine for failing to respond to the Division.

13 33. Through its attorney, the Division received a copy of pleadings filed in a civil
14 proceeding brought by the Association against PW James, Penny Woods-Frederick, James
15 Schumann and Robert Valentine.

16 34. The Division discovered that the pleadings that were provided to the Division by
17 FREDERICK in a binder were not complete copies and that exhibits had been withheld.

18 35. As exhibits to an Opposition filed by all the defendants, Schumann and
19 Valentine submitted their declarations.

20 36. The binder provided by FREDERICK included the Opposition, but did not
21 include any of the exhibits.

22 37. Both Schumann and Valentine state that they were candidates in the 2014
23 election that had been challenged in court.

24 38. On or about February 13, 2014, Schumann and Valentine state that they went
25 to PW James and asked Penny Frederick to turn over the returned ballots to them.

26 39. Schumann and Valentine state that the meeting took place on February 17 at
27 which FREDERICK handed the ballots to Schumann and Valentine.

28 40. The ballots were opened and counted at that meeting and Schumann and

1 Valentine received the most votes.

2 41. According to the records provided by FREDERICK, the nomination form for the
3 election was mailed on October 31, 2013 and states that it must be returned no later than
4 November 18, 2013.

5 42. NRS 116.31034(4) states: "Not less than 30 days before preparation of a ballot
6 for the election of members of the executive board, the secretary... shall cause notice to be
7 given to each unit's owner of the unit's owner's eligibility to serve as a member of the
8 executive board."

9 43. The ballot created by Penny Frederick states the following:

10 There are two vacant seats on the Board of Directors available for election.
11 Each home is entitled to cast one vote, for one candidate. If more than one
12 vote is shown below, or if more than one vote is shown for any one candidate,
the ballot will not be counted.

13 ...
Total Number of Votes – 1

14 44. The ballot was in error, because there were two vacancies on the board;
therefore, two votes per unit's owner were permitted.

15 45. During the investigation, the Division subpoenaed bank records for the
16 Association from January 2012 through April 2014.

17 46. FREDERICK was not a signor on the Association's bank accounts after March
18 1, 2013, yet his name appears on virtually every Association check issued after that date.

19 47. FREDERICK'S signature is on approximately 74 Association checks:

20 a. Three of the checks are only signed by FREDERICK.

21 i. Check No. 300 dated October 10, 2013 made payable to Ami
22 Bornheimer for \$76.00;

23 ii. Check No. 295 dated October 4, 2013 made payable to PW James for
24 \$2,630.16; and

25 iii. Check No. 252 dated April 25, 2013 made payable to PW James for
26 \$2,471.

27 b. One check is from the Association's reserve account.
28

i. Check No. 11 dated September 11, 2013 made payable to Park Pro for \$453.91.

c. One check was made out to the Association for its reserve account, but deposited into the account of PW James.

i. Check No. 256 dated May 16, 2013 made payable to Laurel Canyon for \$2,709.31.

48. PW James received more than \$45,000 with checks improperly endorsed by FREDERICK.

49. PW James's management contract dated December 1, 2013 provided for a monthly fee of \$2,058.

50. PW James's management contract dated March 17, 2014 and signed by James Schumann on behalf of the Association provides for a monthly fee of \$2,743.50.

51. However, PW James received two checks in March 2014 totaling \$5,214.50 and four checks in April 2014 totaling \$12,830.94.

52. FREDERICK filed paperwork with the Division to associate his license with PW James as of September 22, 2015.

53. FREDERICK filed the Association's registration with the Division on November 2, 2015 and submitted fees, with penalties and interest that had accrued.

54. Although the registration form states that the board members provided Division Form 602 per NRS 116.31034(15); no such forms were provided for James Schumann or Robert Valentine.

VIOLATIONS OF LAW

55. RESPONDENT FREDERICK violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding or otherwise interfering with an investigation of the Division by failing to comply with a request of the Division to provide documents.

56. RESPONDENT FREDERICK violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by impeding or otherwise interfering with an investigation of the Division by supplying false or misleading information to an investigator when he stated by affidavit that

1 he did not was not aware of the February 2014 election meeting and was not included in the
2 process.

3 57. RESPONDENT FREDERICK violated NRS 116A.640(2)(c) and NAC
4 116A.345(2)(c) by impeding or otherwise interfering with an investigation of the Division by
5 concealing facts and documents relating to the February 2014 election and by failing to
6 respond to allegations regarding Association checks.

7 58. RESPONDENT FREDERICK violated NRS 116A.640(3) and NAC 116A.345(3)
8 by commingling money from the Association with PW James's money by depositing a check
9 payable to the Association into PW James's account.

10 59. RESPONDENT FREDERICK violated NRS 116A.640(5) and NAC 116A.345(4)
11 by being a signor on a withdrawal from a reserve account.

12 60. RESPONDENT FREDERICK violated NRS 116A.640(10) and NAC
13 116A.345(9) by collecting fees or other charges from the Association not specified in the
14 management contract for the months of March and April 2014.

15 61. RESPONDENT FREDERICK violated NRS 116A.630(1)(a) by failing to act as a
16 fiduciary in his relationship with the Association by signing or allowing his name to be placed
17 on Association checks without being an authorized signor on the bank accounts, including a
18 reserve account check in violation of NRS 116.31153.

19 62. RESPONDENT FREDERICK violated NRS 116A.630(1)(b) by failing to
20 exercise ordinary and reasonable care in the performance of his duties by signing or allowing
21 his name to be placed on checks when he was not an authorized signor on the Association's
22 bank accounts.

23 63. RESPONDENT FREDERICK violated NRS 116A.630(6)(a) by failing to ensure
24 that the financial transactions of his client were current, accurate, and properly documented.

25 64. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(1) (through NAC
26 116A.355(2)(f)) by committing unprofessional conduct by failing to cooperate with the Division
27 in the investigation of a complaint by failing to produce requested documents and by failing to
28 provide a response to allegations of misconduct.

1 65. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(a) by committing
2 unprofessional conduct by failing to pay an administrative fine issued by the Division or timely
3 file an appeal to the Commission.

4 66. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
5 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack
6 of ability, knowledge or fitness to perform a duty or obligation owed to a client by failing to
7 turn over Association records to the Association's new community manager.

8 67. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
9 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack
10 of ability, knowledge or fitness to perform a duty or obligation owed to a client by giving two
11 candidates named on a ballot the ballots returned to the Association in violation of NRS
12 116.31034(11).

13 68. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
14 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack
15 of ability, knowledge or fitness to perform a duty or obligation owed to a client by failing to
16 notify the Division of the new board members or to timely file the Association's annual
17 registration.

18 69. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
19 116A.355(3)(a)) by committing professional incompetence by demonstrating a significant lack
20 of ability, knowledge or fitness to perform a duty or obligation owed to a client by supplying
21 false information on the Association's registration form.

22 70. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
23 116A.355(3)(b)) by committing professional incompetence by failing to exercise reasonable
24 skill and care with respect to a duty or obligation owed to a client by failing to turn over
25 Association records to its new community manager.

26 71. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(2) (through NAC
27 116A.355(3)(b)) by committing professional incompetence by failing to exercise reasonable
28 skill and care with respect to a duty or obligation owed to a client by giving two candidates

1 named on a ballot the sealed ballots returned to the Association instead of turning them over
2 to the Association's new community manager.

3 72. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(1) (through NAC
4 116A.355(2)(i)) by committing unprofessional conduct by exceeding the authority granted to
5 him by his client.

6 73. RESPONDENT FREDERICK violated NAC 116A.355(1)(a)(1) and (2) (through
7 NAC 116A.355(4)(g)) by committing unprofessional conduct and professional incompetence
8 by failing to act in the best interests of the client.

9 74. RESPONDENT FREDERICK violated NRS 116A.620(6) and NAC 116A.325(6)
10 by failing to transfer Association records to the new management company; instead providing
11 returned ballots to candidates in the election.

12 75. RESPONDENT FREDERICK violated NAC 116A.340 by failing to give the
13 Division timely notice of his change of association from MP Association Management to PW
14 James.

15 **DISCIPLINE AUTHORIZED**

16 Pursuant to the provisions of NAC 116A.360 the Commission has discretion to impose
17 discipline as it deems appropriate, including, but not limited to one or more of the following
18 actions:

- 19 1. Revoke or suspend the certificate;
- 20 2. Refuse to renew or reinstate the certificate;
- 21 3. Place the community manager on probation;
- 22 4. Issue a reprimand or censure to the community manager;
- 23 5. Impose a fine of not more than \$5,000 for each violation of a statute or
24 regulation;
- 25 6. Require the community manager to pay restitution;
- 26 7. Require the community manager to pay the costs of the investigation and
27 hearing;
- 28 8. Require the community manager to obtain additional education relating to the

1 management of common-interest communities; and

2 9. Take such other disciplinary action as the Commission deems appropriate.

3 The Commission may order one or any combination of the discipline described above.

4 **NOTICE OF HEARING**

5 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
6 Administrative Complaint against the above-named RESPONDENT in accordance with
7 Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and
8 116A of the Nevada Administrative Code.

9 THE HEARING WILL TAKE PLACE on February 2-4, 2016 beginning at 9:00 a.m.
10 each day or until such time as the Commission concludes its business. The Commission
11 meeting on February 2, 2016, will be located at the Department of Business and
12 Industry, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas Nevada
13 89104, with videoconferencing to the Department of Business and Industry, Director's
14 Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706. The
15 Commission meeting on February 3, 2016, will be located at the Nevada Department of
16 Employment Training and Rehabilitation, 2800 East St. Louis Avenue, Conference
17 Room A-C, Las Vegas, Nevada 89104, with videoconferencing to the Nevada
18 Department of Employment Training and Rehabilitation, 500 East Third Street, Carson
19 City, Nevada 89713. The Commission meeting on February 4, 2016, will be located at
20 the Department of Business and Industry, 2501 E. Sahara Avenue, 2nd Floor
21 Conference Room, Las Vegas Nevada 89104, with no videoconferencing.

22 STACKED CALENDAR: Your hearing is one of several hearings that may be
23 scheduled at the same time as part of a regular meeting of the Commission that is expected
24 to take place on February 2-4, 2016. Thus, your hearing may be continued until later in the
25 day or from day to day. It is your responsibility to be present when your case is called. If you
26 are not present when your hearing is called, a default may be entered against you and the
27 Commission may decide the case as if all allegations in the complaint were true. If you need
28 to negotiate a more specific time for your hearing in advance because of coordination with

1 out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at
2 (702) 486-4606.

3 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
4 open meeting under Nevada's open meeting law, and may be attended by the public. After
5 the evidence and arguments, the commission may conduct a closed meeting to discuss your
6 alleged misconduct or professional competence. A verbatim record will be made by a
7 certified court reporter. You are entitled to a copy of the transcript of the open and closed
8 portions of the meeting, although you must pay for the transcription.

9 As a RESPONDENT, you are specifically informed that you have the right to appear
10 and be heard in your defense, either personally or through your counsel of choice. At the
11 hearing, the Division has the burden of proving the allegations in the complaint and will call
12 witnesses and present evidence against you. You have the right to respond and to present
13 relevant evidence and argument on all issues involved. You have the right to call and
14 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
15 relevant to the issues involved.

16 You have the right to request that the Commission issue subpoenas to compel
17 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
18 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
19 Other important rights and obligations, including your obligation to answer the complaint, you
20 have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter 233B, and NRS
21 Chapters 116 and 116A and NAC 116 and 116A.

22 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
23 RESPONDENT must provide to the Division a copy of all reasonably available documents
24 that are reasonably anticipated to be used to support his or her position, and a list of
25 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any
26 document or to list a witness may result in the document or witness being excluded from
27 Respondent's defense. The purpose of the hearing is to determine if the RESPONDENT has
28 violated any of the provisions of NRS and NAC Chapters 116 and 116A, and to determine

1 what administrative penalty is to be assessed against RESPONDENT, if any, pursuant to
2 NAC 116A.360.

3 DATED this _____ day of _____, 2015.

4 REAL ESTATE DIVISION
5 DEPARTMENT OF BUSINESS & INDUSTRY
6 STATE OF NEVADA

7 By: _____
8 JOSEPH (J.D.) DECKER, Administrator
9 2501 East Sahara Avenue
10 Las Vegas, Nevada 89104
11 (702) 486-4033

12 ADAM PAUL LAXALT
13 Attorney General

14 By: 
15 MICHELLE D. BRIGGS, ESQ.
16 Senior Deputy Attorney General
17 555 East Washington Avenue, Suite 3900
18 Las Vegas, Nevada 89101
19 (702) 486-3809
20 Attorneys for Real Estate Division
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what administrative penalty is to be assessed against RESPONDENT, if any, pursuant to
NAC 116A.360.

DATED this 30TH day of December, 2015.

REAL ESTATE DIVISION
DEPARTMENT OF BUSINESS & INDUSTRY
STATE OF NEVADA

ON behalf of JD Decker

By: Michael Jory
JOSEPH (J.D.) DECKER, Administrator
2501 East Sahara Avenue
Las Vegas, Nevada 89104
(702) 486-4033

ADAM PAUL LAXALT
Attorney General

By: [Signature]
MICHELLE D. BRIGGS, ESQ.
Senior Deputy Attorney General
555 East Washington Avenue, Suite 3900
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